

The Honorable Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAN REDLER INSURANCE & FINANCIAL SERVICES, INC.,

No. 2:21-cv-01267-TL

Plaintiff,

STIPULATED PROTECTIVE ORDER

V.

CONSUMER BENEFITS GROUP, LLP dba
BOOMER BENEFITS,

Defendant.

I. STIPULATION

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

1 2. “CONFIDENTIAL” MATERIAL

2 “Confidential” material shall include the following documents and tangible things
3 produced or otherwise exchanged: confidential business and financial information.

4 3. SCOPE

5 The protections conferred by this agreement cover not only confidential material (as
6 defined above), but also (1) any information copied or extracted from confidential material; (2)
7 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,
8 conversations, or presentations by parties or their counsel that might reveal confidential material.

9 However, the protections conferred by this agreement do not cover information that is in
10 the public domain or becomes part of the public domain through trial or otherwise.

11 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

12 4.1 Basic Principles. A receiving party may use confidential material that is disclosed or
13 produced by another party or by a non-party in connection with this case only for prosecuting,
14 defending, or attempting to settle this litigation. Confidential material may be disclosed only to
15 the categories of persons and under the conditions described in this agreement. Confidential
16 material must be stored and maintained by a receiving party at a location and in a secure manner
17 that ensures that access is limited to the persons authorized under this agreement. It is expressly
18 intended and agreed that Confidential material will not be made public via social media, Internet
19 publication, or otherwise.

20 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise
21 ordered by the court or permitted in writing by the designating party, a receiving party may
22 disclose any confidential material only to:

23 (a) the receiving party’s counsel of record in this action, as well as employees of
24 counsel to whom it is reasonably necessary to disclose the information for this litigation;

25 (b) the officers, directors, and employees (including in house counsel) of the
26 receiving party to whom disclosure is reasonably necessary for this litigation, unless a party states
27 that a particular document or material produced is for Attorney’s Eyes Only and is so designated,

1 in which case a receiving party must restrict disclosure of such document or material from the
2 individuals in this subparagraph (b);

3 (c) experts and consultants to whom disclosure is reasonably necessary for this
4 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

5 (d) the court, court personnel, and court reporters and their staff, including any
6 court reporter or videographer reporting a deposition;

7 (e) copy or imaging services retained by counsel to assist in the duplication of
8 confidential material, provided that counsel for the party retaining the copy or imaging service
9 instructs the service not to disclose any confidential material to third parties and to immediately
10 return all originals and copies of any confidential material;

11 (f) during their depositions, witnesses in the action to whom disclosure is
12 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
13 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
14 transcribed deposition testimony or exhibits to depositions that reveal confidential material must
15 be separately bound by the court reporter and may not be disclosed to anyone except as permitted
16 under this agreement;

17 (g) the author or recipient of a document containing the information or a custodian
18 or other person who otherwise possessed or knew the information.

19 (h) professional jury or trial consultants, mock jurors, and professional vendors to
20 whom disclosure is reasonably necessary for this litigation and who have signed the
21 “Acknowledgment and Agreement to Be Bound” (Exhibit A).

22 **4.3 Filing Confidential Material.** Before filing confidential material or discussing or
23 referencing such material in court filings, the filing party shall confer with the designating party,
24 in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will
25 remove the confidential designation, whether the document can be redacted, or whether a motion
26 to seal or stipulation and proposed order is warranted. During the meet and confer process, the
27 designating party must identify the basis for sealing the specific confidential information at issue,

1 and the filing party shall include this basis in its motion to seal, along with any objection to
2 sealing the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be
3 followed and the standards that will be applied when a party seeks permission from the court to
4 file material under seal. A party who seeks to maintain the confidentiality of its information must
5 satisfy the requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion
6 to seal. Failure to satisfy this requirement will result in the motion to seal being denied, in
7 accordance with the strong presumption of public access to the Court's files.

8 **5. DESIGNATING PROTECTED MATERIAL**

9 **5.1 Exercise of Restraint and Care in Designating Material for Protection.** Each party or
10 non-party that designates information or items for protection under this agreement must take care
11 to limit any such designation to specific material that qualifies under the appropriate standards.
12 The designating party must designate for protection only those materials, documents, items, or
13 oral or written communications that qualify, so that other materials, documents, items, or
14 communications for which protection is not warranted are not swept unjustifiably within the
15 ambit of this agreement.

16 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
17 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
18 unnecessarily encumber or delay the case development process or to impose unnecessary
19 expenses and burdens on other parties) expose the designating party to sanctions.

20 If it comes to a designating party's attention that information or items that it designated
21 for protection do not qualify for protection, the designating party must promptly notify all other
22 parties that it is withdrawing the mistaken designation.

23 **5.2 Manner and Timing of Designations.** Except as otherwise provided in this agreement
24 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,
25 disclosure or discovery material that qualifies for protection under this agreement must be clearly
26 so designated before or when the material is disclosed or produced.

27 (a) Information in documentary form: (e.g., paper or electronic documents and

1 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
2 the designating party must affix the word “CONFIDENTIAL” and/or “ATTORNEY’S EYES
3 ONLY” to the bottom of each page of the document.

4 (b) Testimony given in deposition or in other pretrial proceedings: the parties and
5 any participating non-parties may identify on the record, during the deposition or other pretrial
6 proceeding, all protected testimony, without prejudice to their right to so designate other
7 testimony after reviewing the transcript. All deposition transcripts will be treated as confidential
8 for fifteen days after receipt of the transcript. Any party or non-party may, within fifteen days
9 after receiving the transcript of the deposition or other pretrial proceeding, designate portions of
10 the transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect
11 confidential information at trial, the issue should be addressed during the pre-trial conference.

12 (c) Other tangible items: the producing party must affix in a prominent place on
13 the exterior of the container or containers in which the information or item is stored the word
14 “CONFIDENTIAL” and/or “ATTORNEY’S EYES ONLY.” If only a portion or portions of the
15 information or item warrant protection, the producing party, to the extent practicable, shall
16 identify the protected portion(s).

17 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
18 designate qualified information or items does not, standing alone, waive the designating party’s
19 right to secure protection under this agreement for such material. Upon timely correction of a
20 designation, the receiving party must make reasonable efforts to ensure that the material is treated
21 in accordance with the provisions of this agreement.

22 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

23 6.1 Timing of Challenges. Any party or non-party may challenge a designation of
24 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality
25 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic
26 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to
27 challenge a confidentiality designation by electing not to mount a challenge promptly after the

1 original designation is disclosed.

2 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
3 regarding confidential designations without court involvement. Any motion regarding
4 confidential designations or for a protective order must include a certification, in the motion or
5 in a declaration or affidavit, that the movant has engaged in a good faith meet and confer
6 conference with other affected parties in an effort to resolve the dispute without court action. The
7 certification must list the date, manner, and participants to the conference. A good faith effort to
8 confer requires a face-to-face meeting or a telephone conference.

9 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
10 intervention, the designating party may file and serve a motion to retain confidentiality under
11 Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of
12 persuasion in any such motion shall be on the designating party. Frivolous challenges, and those
13 made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on
14 other parties) may expose the challenging party to sanctions. All parties shall continue to
15 maintain the material in question as confidential until the court rules on the challenge.

16 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
17 LITIGATION

18 If a party is served with a subpoena or a court order issued in other litigation that compels
19 disclosure of any information or items designated in this action as “CONFIDENTIAL” and/or
20 “ATTORNEY’S EYES ONLY,” that party must:

21 (a) promptly notify the designating party in writing and include a copy of the
22 subpoena or court order;

23 (b) promptly notify in writing the party who caused the subpoena or order to issue
24 in the other litigation that some or all of the material covered by the subpoena or order is subject
25 to this agreement. Such notification shall include a copy of this agreement; and

26 (c) cooperate with respect to all reasonable procedures sought to be pursued by
27 the designating party whose confidential material may be affected.

1 8. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
2 LITIGATION

3 The terms of this Order are applicable to information produced by a non-party in this
4 action and designated as "CONFIDENTIAL." Such information produced by non-parties in
5 connection with this litigation is protected by the remedies and relief provided by this Order.
6 Nothing in these provisions should be construed as prohibiting a non-party from seeking
7 additional protections.

8 In the event that a party is required, by a valid discovery request, to produce a non-party's
9 confidential information in its possession, and the party is subject to an agreement with the non-
10 party not to produce the non-party's confidential information, then the party shall:

- 11 a) promptly notify in writing the requesting party and the non-party that some or all
12 of the information requested is subject to a confidentiality agreement with a non-
13 party;
- 14 b) promptly provide the non-party with a copy of the Stipulated Protective Order in
15 this litigation, the relevant discovery request(s), and a reasonably specific
16 description of the information requested; and
- 17 c) make the information requested available for inspection by the non-party.

18 If the non-party fails to object or seek a protective order from this court within ten
19 calendar days of receiving the notice and accompanying information, the receiving party may
20 produce the non-party's confidential information responsive to the discovery request. If the non-
21 party timely seeks a protective order, the receiving party shall not produce any information in its
22 possession or control that is subject to the confidentiality agreement with the non-party before a
23 determination by the court. Absent a court order to the contrary, the non-party shall bear the
24 burden and expense of seeking protection in this court of its Protected Material.

25 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

26 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
27 material to any person or in any circumstance not authorized under this agreement, the receiving

1 party must immediately (a) notify in writing the designating party of the unauthorized
2 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material,
3 (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of
4 this agreement, and (d) request that such person or persons execute the “Acknowledgment and
5 Agreement to Be Bound” that is attached hereto as Exhibit A.

6 10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
7 MATERIAL

8 When a producing party gives notice to receiving parties that certain inadvertently
9 produced material is subject to a claim of privilege or other protection, the obligations of the
10 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
11 provision is not intended to modify whatever procedure may be established in an e-discovery
12 order or agreement that provides for production without prior privilege review. The parties agree
13 to the entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

14 11. TERMINATION AND RETURN OF DOCUMENTS

15 Within 60 days after the termination of this action, including all appeals, each receiving
16 party must return all confidential material to the producing party, including all copies, extracts
17 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of
18 destruction. Notwithstanding this provision, counsel are entitled to retain one archival copy of
19 all documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
20 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert
21 work product, even if such materials contain confidential material. The confidentiality
22 obligations imposed by this agreement shall remain in effect until a designating party agrees
23 otherwise in writing or a court orders otherwise.

24 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
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14 ORDER

15 PURSUANT TO STIPULATION, IT IS SO ORDERED

16 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
17 documents in this proceeding shall not, for the purposes of this proceeding or any other federal
18 or state proceeding, constitute a waiver by the producing party of any privilege applicable to
19 those documents, including the attorney-client privilege, attorney work-product protection, or
20 any other privilege or protection recognized by law.

21
22 DONE this 8th day of June, 2022

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25 
26 Tana Lin
27 United States District Judge